

Youth justice: The statutory principal aim of preventing offending by children and young people

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in consultation with:

- Lord Warner of Brockley, Chair of the Youth Justice Board
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- The Association of Directors of Social Services
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- The Association of Chief Officers of Probation
- The Association of Chief Police Officers
- The National Health Service Confederation
- The Association of Chief Education Officers
- The Prison Governors' Association
- The Justices' Clerks' Society
- The Magistrates' Association
- Joint Council of Her Majesty's Stipendiary Magistrates
- The Law Society
- The Criminal Bar Association

YOUTH JUSTICE - PREVENTING OFFENDING

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PREFACE BY THE HOME SECRETARY

For far too long, those working in the youth justice system have been left without any clear central direction as to where their priorities should lie and what outcomes they should be aiming to achieve. The Crime and Disorder Act 1998 provides that direction and focus through the new principal aim of preventing offending by children and young people.

The Government wants to see the youth justice system make a real difference to the lives of the children and young people with whom it deals by preventing those children and young people from offending. Too many young people begin offending at a very young age. Too many continue offending in their adult lives. Young people who offend and re-offend damage their own lives. They cause disruption, harm and distress to others. Preventing offending is in the best interests of all concerned and should be a priority for all those working in the youth justice system.

The services and agencies that together are responsible for the operation of the youth justice system have different roles to play and different contributions to make. But all in their different ways can help prevent offending by those children and young people with whom they work. Section 37 of the Crime and Disorder Act makes clear their shared responsibility for achieving this aim. It places all those carrying out functions in relation to the youth justice system under a statutory duty to have regard to the new principal aim.

Partnership is an essential starting point. Whatever the dedication and commitment of individual youth justice practitioners, they will only fulfil this new duty effectively if they work with each other, recognise that they share a common aim and share the responsibility for achieving that aim. This framework document sets out the way in which the different services, agencies and individuals can work together to achieve the aim of diverting children and young people away from crime.

Leadership is also vital. The guidance and good practice set out in this document has the support of all those Government departments with responsibilities in respect of children and young people who offend or are at risk of offending. It has the support of the key national associations and societies that represent those working with such young people. It has the support of the Chair of the new Youth Justice Board for England and Wales.

There can no longer be any doubt or confusion about the principal aim of the youth justice system. The challenge for all of us is to prevent crime becoming a way of life for so many young people.

The Rt. Hon. Jack Straw
Secretary of State for the Home Department
September 1998

Introduction

The Crime and Disorder Act 1998 places all those working in the youth justice system under a statutory duty to have regard to a principal aim of preventing offending by children and young people. This framework document sets out what this new aim, shared across the youth justice system, means for the operation of that system and the work of those individuals and agencies that work within it.

CRIME AND DISORDER ACT 1998
PART III
CRIMINAL JUSTICE SYSTEM
youth justice

37. (1) It shall be the principal aim of the youth justice system ¹ to prevent offending by children and young persons.
(2) In addition to any other duty to which they are subject, it shall be the duty of all persons and bodies carrying out functions in relation to the youth justice system to have regard to that aim.

¹ Section 42 (1) defines the youth justice system as the system of criminal justice in so far as it relates to children and young persons

The aim - what it means for you

2. The youth justice system deals with 10-17 year olds who commit an offence, or are alleged to have done so, from the first point of contact with the police through, for those convicted, to completion of sentence. The operation of the system involves a number of different agencies and individuals: *police officers, social workers, probation officers, nominees of health and education authorities working in youth offending teams, officers in charge of attendance centres, magistrates, judges, defence and prosecution lawyers, justices' clerks, those working in custodial facilities, volunteers working with these groups and those working in voluntary organisations carrying out functions on behalf of youth justice agencies.* Each of these agencies and individuals has a particular contribution to make and a particular role to play. Each has its own traditions and working practices. Some are subject to particular statutory duties; others have professional codes of practice. But they all share a common interest in the fair and effective administration of justice - acquitting the innocent as well as dealing with the guilty - and in preventing children and young people who have offended from committing further offences.

3. For the first time the Crime and Disorder Act 1998 sets out this aim of preventing offending in statute. Section 37 of the Act places all the different agencies and individuals working in the youth justice system under a duty to have regard to the principal aim of preventing offending by children and young people, in addition to their other duties. *It is a duty which recognises the different roles of the agencies and individuals working in the youth justice system but also recognises that, through the administration of justice, they share a responsibility to young people in the youth justice system to do what they can to help prevent those young people*

offending.

The aim - why in statute?

4. The youth justice system has for too long been seen to be separate from wider youth crime prevention work. The outcomes of the youth justice system, in terms of its potential impact on offending by those children and young people with whom it deals, have not been seen as contributing to a goal of reducing youth crime. But the youth justice system has an important contribution to make to this and its success in doing so will be greatest if it is part of a wider crime reduction strategy. The new statutory aim of preventing offending by children and young people makes clear the important link that there should be between the work of the youth justice system and wider work to help prevent children and young people offending.

5. The new statutory aim of preventing offending also provides a new guiding principle to which all agencies and individuals can relate their work and responsibilities. There has been conflict within the youth justice system between the interests of the victim and the public and the interests of the child or young person who has offended or is alleged to have offended. There has been conflict between promoting the welfare of the child or young person and taking firm action to deal with his or her offending behaviour. These conflicts have affected the operation of the youth justice system. The youth court, for example, is often too private with victims unaware of proceedings or the outcome of them. Although the youth justice system has served some children and young people well in preventing offending - the evidence shows, for example, that for many first time offenders a simple formal reprimand from the police (in the past through cautioning) is sufficient to divert young people from further crime - it has served other children and young people poorly. For them, effective intervention has come too late, after repeat cautioning and conditional discharge, or has been ineffective. A small but significant proportion of young people persistently offend; some carry on offending in their adult lives.

6. An effective youth justice system must ensure that justice is delivered for *all* concerned and that the best interests of *all* are served. There must be consideration, by all agencies and individuals, of the welfare of the child or young person: this is required by the UN Convention on the Rights of the Child to which the UK is a signatory. But there must also be a balance between the interests of the child or young person who has offended and the interests of the victim, or potential victims. The absence of any guiding principle across the youth justice system about what that balance should be or about what the practical outcomes are which the youth justice system should seek to deliver in respect of the welfare of children and young people who offend has encouraged a sense of conflict. The new principal statutory aim fills that gap. Preventing offending is in the best interests of the child or young person. It is also in the best interests of the victim and the wider public. The new aim makes clear the priority, within the youth justice system, that should be given to preventing offending in considering the welfare of the child or young person and in balancing the interest of all concerned. All agencies and individuals can play a part in achieving this aim consistent with their particular roles and responsibilities. *The key contributions that each can make are highlighted in the following sections of this framework document.*

7. The response to a child or young person's offending needs to be constructive and appropriate. Whether intervention following an admission of guilt or conviction is community-based or a custodial sentence, the emphasis should be on taking effective action to prevent further offending and on carrying out the groundwork needed to allow the child or young person to be effectively re-integrated into the community and to stay away from further crime. A nation-wide youth justice system should have the capacity to reduce offending rates of all the children and young people with whom it deals and not only of those whose offending behaviour is

easiest to tackle or of those who live in areas where local youth justice services have developed further than others.

8. Many young people who offend can be dealt with effectively in the community and all areas need to ensure that a full range of community penalties are available, delivered and enforced in line with legislation and national standards. The Crime and Disorder Act provides for a new police final warning scheme and a range of new court powers which strengthen and widen the scope for effective community-based intervention when children and young people first offend.

9. For those whose offending is serious or persistent, custody may, however, be the only way of protecting the public from further offending. It may be the best way of bringing home to the young person the seriousness of his or her behaviour and the best way of preventing the young person from continuing to offend. Placing a young person in a secure environment that provides discipline, structure, education and training, as well as programmes to tackle offending behaviour, may provide a vital opportunity for the young person to break out of a pattern of offending and regain control of his or her behaviour. Good quality custodial facilities, as well as community based provision, need to be an integral part of youth justice services so that the youth justice system can intervene effectively with all children and young people who offend.

10. Preventing offending and re-offending is in the best interests of all concerned. It promotes the welfare of the child or young person. It protects the victim and the public. *The statutory principal aim of preventing offending provides a new starting point for multi-agency working in the youth justice system. It provides a clear benchmark against which to measure success.*

Achieving the aim - key objectives

11. There is no single or simple way of preventing an individual child or young person offending. The factors that put young people at risk of offending, which are well documented in research¹, include:

- troubled home life, including poor parenting, criminal family member, violence or abuse
- peer group pressure
- poor attainment at school, truancy and school exclusion
- personal issues such as drug and alcohol misuse or mental illness
- deprivation such as poor housing or homelessness.

Tackling these factors, and other specific aspects of a child or young person's offending or re-offending requires input from a range of agencies and services both at a strategic level in planning and resourcing local service provision and at a practical level in deciding and delivering a package of intervention to help prevent offending by an individual child or young person. Our chances of achieving this, and of delivering the new statutory aim for the youth justice system, will be greatest *if all agencies and individuals within the youth justice system work in partnership together* to deliver a clear set of objectives and if the work of those agencies and individuals is undertaken against the background, and as an integral part, of a wider youth crime prevention strategy. There are *six key objectives* which all contributors to the youth justice system are asked to reflect in the way they plan, carry out and monitor their work, as appropriate to their individual roles and responsibilities.

Six objectives

1. The swift administration of justice so that every young person accused of breaking the law has the matter resolved without delay

Speedy procedures avoid the uncertainty and stress of a long wait for trial for the child or young person accused of an offence and for the victim of the alleged offence; minimise the risks of any offending while awaiting trial; ensure that, if found guilty, the sentence is meaningful and understood by the young person as a consequence of his or her behaviour; and ensure that early action can be taken to help prevent any further offending. Dealing with cases quickly, so that action can be taken to prevent further offending if the young person is found guilty, is particularly important where the child or young person concerned has a history of offending or is alleged to have committed several offences. The Government has set a key performance target for all agencies of halving the national average time of 142 days, in 1996, from arrest to sentence for persistent young offenders.

Key contributors - police, defence and prosecution lawyers, justices' clerks and court staff, magistrates, judges, youth offending team members, social workers, probation officers, teachers and health workers responsible for preparing or contributing to court reports and those responsible for bail information schemes, bail support schemes, secure remand facilities etc.

2. Confronting young offenders with the consequences of their offending, for themselves and their family, their victims and the community and helping them to develop a sense of personal responsibility

Understanding the effect of their behaviour on others, particularly the victim, is an important lesson for a young offender to learn. If young people understand the consequences of their behaviour, and take personal responsibility for it, they are less likely to repeat it.

Key contributors - police, magistrates and judges, youth offending team members, social workers, probation officers, officers in charge of attendance centres and those responsible for secure facilities and for delivering community penalties.

3. Intervention which tackles the particular factors (personal, family, social, educational or health) that put the young person at risk of offending and which strengthens 'protective factors';

The nature and causes of a young person's offending and the most effective way of dealing with it will vary. A full range of interventions and orders needs to be available locally. Interventions in the community and in custody should reflect the nature and seriousness of the offending and should target the particular causes of the young person's offending. They should also seek to strengthen those factors and influences that are likely to discourage offending and encourage the young person to use his or her time and opportunities positively. A primary aim should be to re-integrate the young person into the community.

Key contributors - police, magistrates, judges, youth offending team members, social workers, probation officers, health and education workers and others involved in delivering community and custodial penalties.

4. Punishment proportionate to the seriousness and persistence of the offending

If young people who do offend, their victims and the wider public (including in particular other children and young people), are to have confidence in the youth justice system, they need to feel that the response fairly reflects the seriousness of the offending as determined by the court, taking account of all the circumstances of the case.

Key contributors - police, magistrates, judges, youth offending team members

5. Encouraging reparation to victims by young offenders

Making amends through reparation gives the young person the opportunity to take responsibility for, and control of, his or her behaviour and to make a new start. It helps the young person to understand the impact of his or her behaviour on others. It can also help the victim deal with the consequences of the offence.

Key contributors - magistrates, judges, youth offending team members, social workers, probation officers, others involved in the delivery of community and custodial penalties and agencies working with or representing the interests of victims.

6. Re-inforcing the responsibilities of parents

Research shows that poor parenting is one of the key influences on the likelihood of a young person offending. Parents and guardians have a primary role to play in preventing their children from offending and, if they do offend, from re-offending. They also have a primary role in supporting children and young people who are accused of offending through the whole of the youth justice process - while awaiting trial, during trial and, if guilty, in helping them to comply with the final warning intervention or sentence. Some parents may need support and encouragement to fulfil these roles. Providing such support and encouragement, where it is needed, will help ensure that the young person's rights are protected during any proceedings and that they are able to participate in and understand proceedings. As an integral part of the response to a young person who has offended, it will also help prevent further offending.

Key contributors - police, justices' clerks' and court staff, magistrates, judges, youth offending team members, social workers, probation officers, health workers and others involved in delivering parenting guidance and support .

12. In delivering *all* these objectives, and in all other work with children and young people in the youth justice system, agencies and individuals must carry out their responsibilities *fairly and without discrimination on grounds of race, sex or any other irrelevant factor*. Section 95 of the Criminal Justice Act 1991 makes clear the responsibility of all those involved in the administration of justice to avoid unfair discrimination.

Achieving the aim - practical action

13. Provisions in the Crime and Disorder Act 1998, combined with existing powers, provide an important new framework for practical action to achieve the principal statutory aim of preventing offending and the six supporting objectives.

Local multi-agency working

"I have been closely involved with the youth justice system over many years - as youth worker, magistrate, constituency MP and now Minister of State. I know that there is an enormous amount of experience, skill, enthusiasm and commitment across all the youth justice services which if brought together effectively can make a significant impact on preventing young people offending. I believe this framework document and the provisions in the Crime and Disorder Act will provide the structure, guidance and impetus needed for practical action to achieve the statutory principal aim."

Alun Michael, Minister of State, Home Office

"I commend this framework document to local authorities, health authorities and other agencies in Wales who will be playing their part in implementing the new Act. Effective inter-agency working will be crucial in addressing the key aim of preventing offending by young people. Youth offending teams are central to the new arrangements, and I look to all agencies to work together with a sense of commitment and purpose over the coming months to ensure that teams for their areas are established effectively."

Jon Owen Jones, Parliamentary Under Secretary of State, Welsh Office

14. The Crime and Disorder Act sets a statutory framework for **multi-agency working, key to all objectives**. Multi-agency working requires:

- *clear, integrated structures*

14.1 A youth justice system based on multi-agency working needs effective local and national structures in which responsibilities and accountability are clear and which are grounded in a *wider youth crime reduction strategy*. Action to prevent children and young people offending should not start or finish with the youth justice system. The first objective of any youth crime reduction strategy should be to stop children and young people ever becoming involved in crime. General crime reduction strategies and, where appropriate, targeted intervention with children and young people at particular risk of offending should provide the context within which the work of the youth justice system is undertaken.

14.2 The Crime and Disorder Act 1998 provides an important new framework for multi-agency working in the youth justice system. It *introduces youth offending teams*, as required by section 39 of the Act, as the core of inter-agency working between the *police, the probation service, social services, education and health authorities* and as a new focus for co-operation between *all local youth justice agencies, individuals and professional groups*. The structures should be an integral part of wider local criminal justice arrangements so that the youth justice system can benefit from that wider support and can manage older offenders effectively. But it should also be part of a wider youth crime reduction strategy. Youth offending teams should have a clear focus on and remit to reduce offending by young people; links with key services outside the youth justice system such as *employment services, housing services, youth, career and leisure services and voluntary organisations working with young people* are important.

14.3 The new district or borough-based *crime and disorder reduction strategies*, required by section 6 of the Crime and Disorder Act, provide the wider crime reduction framework. Paragraph 7(b) of Schedule 2 to the Children Act 1989 already requires local authorities to take steps to encourage children and young people not to commit offences. Sections 11 and 14 of the 1998 Act provide powers - child safety orders (to be co-ordinated by youth offending teams) and local child curfews - for targeted early intervention with young children (below the age of 10 years) at risk of offending. Section 1 provides for anti-social behaviour orders to enable local authorities, with the police, to intervene to prevent anti-social behaviour, by those aged 10 and above.

- *common understanding*

14.4 People from different agencies and working backgrounds have different experiences, different working practices and different responsibilities. Effective working relationships depend on understanding and respecting those differences and on working within them. Conferences, appropriate joint training and a local forum for practitioners to discuss and exchange information and experience - such as a *youth court user group, Area Criminal Justice Liaison Committee* or other local forum - can all help achieve a common understanding. Elected

members' forums can also be important in developing a common understanding.

- ***joint planning***

14.5 An effective youth justice system, which makes best use of resources, requires agencies to work together within a shared plan for the delivery of services. The plan needs clear objectives and performance targets. The key agencies and services which need to be involved in joint planning are *local authorities with responsibility for social services and education, the probation service, police service and health authorities* but such planning should be undertaken in *consultation with other agencies* so that they understand and can contribute, in a manner consistent with their particular responsibilities, to the overall plan. The basis for such planning should be a *joint audit* of patterns of youth crime and available services in the area, drawing as far as possible on the audit of wider crime and disorder problems required under section 6 of the Crime and Disorder Act.

14.6 Section 40 of the Crime and Disorder Act requires local authorities with responsibility for social services and education, after consultation with the *probation service, police service (chief constable and police authority) and health authorities*, to draw up an annual youth justice plan setting out how youth offending teams and relevant youth justice services are to be delivered locally. These services are listed at Annex A; they include pre-court services, such as appropriate adult schemes, bail support, remand provision and the final warning scheme; court services, such as the preparation of reports; co-ordination and supervision of sentences; and co-ordination of certain preventative measures such as the child safety order and parenting order. The Act also requires consultation with district councils where the relevant local authority is a county council. Inter-departmental guidance on the setting up and operation of youth offending teams (see Annex B) encourages wide consultation across the local youth justice system in establishing these teams and services.

14.7 Under section 6 of the Act local audits of levels and patterns of crime and disorder need to be undertaken to help draw up the new district or borough-based crime and disorder reduction strategies. The youth justice plan will be one of the vehicles available for taking forward objectives in the crime reduction strategy for tackling youth offending. The plan will also be one way of taking forward local authority responsibilities under the Children Act 1989 for preventing children committing crime. The youth justice plan should, therefore, draw on relevant services under the children's services plan required under that Act. It should also be consistent with the local authority behaviour support plan required by the Education Act 1997 and the Drug Action Team's annual action plan. It needs to take account of the wider criminal justice arrangements locally of which it is a part and be consistent with the local policing plan required under the Police Act 1996 and with the local probation service plan.

- ***combining or pooling of resources***

14.8 Combining or pooling resources, where this is appropriate, can maximise benefits and avoid duplication of effort. A combined or pooled budget for the provision of youth offending teams and youth justice services allows for better decision-making and better targeting of resources so that offending behaviour can be tackled as a whole and not piecemeal.

14.9 Under the annual youth justice plan, *local authorities, the probation service, the police service and health authorities* will combine staff and other resources to deliver youth offending teams and a full range of youth justice services (sections 38 and 39 of the Crime and Disorder Act). The Act allows those agencies to provide for the teams and services out of a pooled budget established by the local authority. The pooled budget can be used to pay for staff and

accommodation costs and to purchase or commission relevant youth justice services from statutory, voluntary and private sector agencies.

- ***sharing of information***

14.10 Information about an individual's current and past offending behaviour and relevant family circumstances and education and health needs is essential if interventions are to be targeted effectively to prevent re-offending. Section 115 of the Crime and Disorder Act makes clear that information can be disclosed to and used by *local authorities, health authorities, the probation service, the police service and others, including voluntary organisations, working on behalf of these agencies* for the purposes of the provisions of the Act. This includes the work of youth offending teams in delivering youth justice services, including the preparation of reports to courts, and in other work to prevent offending.

14.11 Inter-departmental guidance on the setting up and operation of youth offending teams (see Annex B) sets out key principles concerning the sharing of information. Consistent with data protection legislation, local protocols agreed between all the agencies can help ensure that information is held and used appropriately, and that all the different agencies and individuals working in the youth justice system in that area have confidence in the arrangements.

Pre-court procedures

"I believe that this framework document will be invaluable in helping practitioners from all agencies carrying out functions in relation to the youth justice system to work together to achieve the statutory aim and to reduce delays. I support and endorse it."

Ross Cranston, Solicitor General

15. The Crime and Disorder Act also makes procedural changes to encourage **efficient, fair and effective pre-court procedures, key to objective 1**. Efficient and effective procedures require:

- ***efficient handling of cases***

15.1 The speed, as well as the way, with which we deal with cases can make a difference to the likelihood of further offending. Resolving cases quickly is equally important for victims and for those children and young people wrongly accused.

15.2 The Crime and Disorder Act 1998 introduces certain new procedures and case management arrangements to help deliver an efficient service; it also provides for statutory time limits to be introduced (for details, see *Crime and Disorder Act 1998: Introductory guide*, Home Office Communication Directorate, 1998 - see Annex B).

15.3 Other good practice measures can help speed up the process without compromising the principles of justice.

- *Defence lawyers* acting quickly and efficiently, once instructed by their clients, can help reduce delay, particularly where the young person admits the offence and wants to make an early guilty plea.
- An efficient *police* final warning scheme will ensure that cases not serious enough for prosecution are dealt with quickly and that the effect of any intervention has maximum impact and effect. The reprimand or warning should be administered quickly by *the*

police following arrest and an admission of guilt: an assessment by the *youth offending team* and work to prevent further offending should follow within days of a final warning.

- Joint working by the *police and the Crown Prosecution Service* from the start of cases and facilities for *defence solicitors* to interview clients in privacy at police stations can help to avoid unnecessary delay in the early stages of case preparation. Timely review of the case and advance disclosure by the *CPS*; timely submission of a defence statement by *defence lawyers*; and early notification of the time of the court hearing to witnesses, and the defendant, by the *CPS* and *defence lawyers* will help ensure an effective court hearing.
- Effective *listing* of cases by *courts*, avoiding *unnecessary adjournments* in *court proceedings* and prompt *preparation of reports for the court* by *youth offending team members, social workers, probation officers and others*, when required, can help ensure cases are completed with out delay.
- *Fast tracking schemes*, involving *police, CPS, courts, defence lawyers, youth offending teams, and others involved in preparing reports for courts*, ensure that priority is given throughout the process to young offender cases, and in particular, to persistent young offender cases.

Further good practice guidance is contained in '*Tackling delays in the youth justice system: Inter-departmental circular*', issued in October 1997 (see Annex B).

- ***effective support for the young person on arrest and awaiting trial***

15.4 Children and young people who are alleged to have committed an offence may need support at the police station in order to explain, face up to and take responsibility for their behaviour and in order to understand the implications of decisions they may need to take. They may also need support while awaiting trial in order to help ensure they attend the court hearing and to help avoid any offending. The starting point for this is clearly parents or guardians or, where a child is in the care of a local authority, the person responsible for that child or young person. But '*appropriate adult services*', facilities for *defence solicitors* to interview clients in privacy at *police* stations, *bail information, bail support, non-secure remand facilities*, such as remand fostering, and *secure remand facilities* are also important. Key contributors to pre-court services are *youth offending teams, social workers, probation officers and those running community based and secure remand facilities*.

15.5 The nature of the support provided for children and young people on remand will depend on the seriousness of the alleged offending and the circumstances of the case. Effective provision in the community (eg bail support) will help ensure that most children and young people can be supported at home or in non-secure facilities. For some, however, secure facilities may be the only way to prevent offending, protect the public and ensure the best interests of all concerned. *Good quality bail support, non-secure and secure remand facilities* are all an integral part of youth justice provision.

- ***appropriate training for those dealing with young people in precourt stages of proceedings and administering reprimands and warnings***

15.7 *Police officers*, those acting as *appropriate adults* and *defence solicitors* are most likely to have first direct contact with the child or young person and need to be able to communicate effectively with them. So too do *those police officers who administer reprimands and warnings*. Training can help in improving communication skills and in ensuring fair and equal treatment.

Court proceedings

"The new statutory aim is relevant both to the way the courts deal with young defendants, and to sentencing decisions. It does not change or supersede the existing statutory provisions governing sentencing. Nor does it make the courts any less independent in their decision-making. But it should help to set a clear direction. For example, it has sometimes been said that punishing a young offender, and seeking to promote his welfare, are two conflicting approaches to sentencing. The new aim makes it clear that the purpose of the youth justice system is to prevent offending. All of the tools which are now - or shortly - being made available to sentencers should be considered and utilised in whatever way will best help achieve that aim."

Geoff Hoon, Minister of State, Lord Chancellor's Department

16. If young people are to engage with the youth justice process, understand it and participate on equal terms within it, **court proceedings must be appropriate to the age of the child or young person. This is key to objectives 2 and 6.** It requires:

- *an appropriate court environment*

16.1 If children and young people who appear in court are to engage effectively with proceedings and understand and learn from them, the proceedings need to be conducted in a manner which takes account of the maturity of the child or young person and allows him or her to participate in an appropriate way. When children and young people are legally represented in court, their representative (*defence lawyer*) has a responsibility to ensure that all information relevant to the young person's defence is heard by the court. But this should not preclude the child or young person from participating in proceedings. Neither should it preclude participation by a parent or guardian. The lay-out of courts, a matter for *justices' clerks*; the language used by *magistrates and judges* in court; the opportunity that *magistrates, judges and defence lawyers* allow for the child or young person (or parent/guardian) to speak for him or herself and to be addressed directly in court; and the readiness of *magistrates and judges* to explain proceedings and the meaning of the sentence imposed are all important.

- *attendance at court by parents, guardians or other child carer*

16.2 Parents or guardians, or where the child or young person is in the care of the local authority, that authority have a responsibility for a child's behaviour. They should always be encouraged to attend court. Section 34A of the Children and Young Persons Act 1933 *requires* parents or guardians, or a local authority representative, to attend any criminal proceedings where the child or young person is under 16 years of age.

16.3 Early notification of the date and time of hearings, and in the case of those parents whose child is under 16, of the legal requirement to attend court, will help ensure that parents are in court with their child. The *police* should have clear formal arrangements for informing parents and the child or young person about the date at which they must make a first appearance in court. *Court staff* should make sure that parents and the child or young person know when they must next appear in court, where cases are adjourned. In addition the *police, the Crown Prosecution Service, court staff, defence lawyers and youth offending team members* are all likely to have informal opportunities to encourage parents to attend court.

- *appropriate training for those dealing with young people at court,*

16.4 Training in communication skills and in avoiding discrimination on the grounds of race, sex or other irrelevant factors is as important for those dealing with children and young people in court as it is for those who deal with them outside court proceedings. Familiarity with and understanding of the law relating to youth justice and regular updating of knowledge and skills

are also essential. Key contributors to court proceedings are *magistrates, judges, justices' clerks, defence lawyers, the CPS, youth offending team members, social workers and probation officers*.

Effective intervention

"It is particularly important that young people understand the nature of their offence and make amends. This framework document and the associated provisions in the Crime and Disorder Act provide a sound basis for encouraging personal responsibility and bringing home to young people the consequences of their actions. The document also emphasises the importance of effective intervention based on a range of responses and the key role of parents in helping to keep young people out of trouble."

Charles Clarke, Parliamentary Under Secretary of State, Department for Education and Employment

17. The Crime and Disorder Act 1998 provides a range of new police and court powers which, with existing powers, will help ensure **effective intervention, key to objectives 2, 3, 4, 5 and 6**. Effective intervention requires:

- ***proportionality and consistency***

17.1 The sentencing framework of the Criminal Justice Act 1991 requires the sentence imposed to be commensurate with the seriousness of the offending or, in the case of custody imposed for a sexual or violent offence, such as is necessary to protect the public from serious harm from the offender. In considering the seriousness of any offence, the court should take account of the circumstances of the offence and the offender and may take account of any previous convictions or any failure to respond to a previous sentence. Timely and accurate information from *the police or youth offending teams* can help avoid delay. The court should make the sentence decision in the light of the seriousness of the offence; subject to that they should have regard to the best option for preventing offending. Court of Appeal judgements, sentencing guidelines made under section 80 of the Crime and Disorder Act, and the Magistrates' Association's advice to magistrates (sentencing guidelines) provide sentencing guidance for *magistrates and judges*. Home Office guidance for the *police* on the operation of the final warning scheme under sections 65 and 66 of the Act provides advice on the circumstances in which it is appropriate to give reprimands and warnings and on the nature of interventions following a warning (see Annex B).

- ***encouraging the young person to accept responsibility and make amends***

17.2 Depending on the circumstances, restorative justice approaches, victim/offender mediation and direct reparation to the victim may each have a role to play in court and non-court based interventions. Where such reparation or mediation would directly involve the victim, his or her willingness to be involved should always take priority; *victims* should not be required to participate or pressurised to do so. *Courts* when sentencing and *youth offending teams*, in the context of a final warning intervention and when preparing PSRs and other court reports, should always consider the issue of reparation and compensation. Where the victim does not want to be directly involved in reparation, reparation to the wider community may be appropriate.

17.3 Courts may impose a compensation order under section 35 of the Powers of Criminal Courts Act 1973. In addition, section 67 of the Crime and Disorder Act 1998 provides for 'reparation in kind' through a court-enforced reparation order. The Crime and Disorder Act also provides for reparation to be included as part of an action plan order (section 69) and as part of a supervision order (section 71) Reparation should also be considered as part of an intervention

following a police final warning (for Home Office guidance on the final warning scheme and new court orders, see Annex B).

17.4 It may also be valuable to the victim, as well as helping the child or young person to face up to the consequences of his or her offending, if a *victim, who wishes to do so, attends court proceedings. Lifting press reporting restrictions* following conviction may also be appropriate and helpful in preventing further offending for some young people. Guidance issued by the Home Office and the Lord Chancellor's Department in June 1998 (Opening Up Youth Court Proceedings - see Annex B) encourages *youth court magistrates* to make full use of their discretion in these areas (sections 39, 47 and 49 of the Children and Young and Persons Act 1933) and, in particular, to invite victims to attend youth court proceedings wherever possible.

- ***effective assessment***

17.5 Getting the ingredients of the intervention right for the individual child or young person who offends - whether this is following a police final warning, a community penalty or a custodial sentence - needs effective assessment of the young person's offending behaviour and of their family circumstances, experience of education, life style and the influences on it which may be relevant to their offending. In some cases a psychiatric assessment may be needed from *health workers*. In some cases there may be child protection issues which need to be addressed through work with the *social services child protection team*. Good quality and timely pre-sentence and other court reports, *prepared by youth offending teams, social workers, probation officers, education and health workers*, are an important part of the assessment process in sentencing.

17.6 Such information can also help those *supervising community penalties* carry out their role effectively and enable *those working with young people in custody* determine and supervise the sentence plan. Assessment for a final warning intervention by *youth offending teams*, required under section 66 of the Crime and Disorder Act, will help ensure that the intervention is properly targeted and that it focuses on the causes of offending. Effective liaison between the various agencies, good information systems and early planning and preparation of reports, including the timely provision of information by the *CPS*, can help avoid delays.

- ***having available a range of responses and interventions to tackle offending behaviour***

17.7 Section 38 of the Crime and Disorder Act sets out the range of youth justice services which *local authorities responsible for social services and education, in co-operation with the police, probation service and health authorities, are required to ensure are available in their area, provided or co-ordinated by youth offending teams*. These are set out at Annex A. They include non-court interventions, linked to a *police* final warning, for first or second time offenders (and in very limited circumstances, third time offenders) whose offending is not serious; a range of community based sentences to help 'nip offending in the bud' when young people first appear in *court* (particularly reparation orders and action plan orders); more demanding community sentences for those whose offending requires a longer period of supervision or a more severe restriction of liberty (eg supervision orders and probation orders); and custodial sentences for the most serious and persistent young offenders. Particular attention should be given to managing a sex offender and to ensuring that effective action can be taken to tackle;

- relevant drug problems;

Section 61 of the Crime and Disorder Act provides for a drug treatment and testing order for those aged 16 and above; the Drug Action Team's annual action plan will be a focus

for developing local preventative services, treatment and assessment services.

- relevant health problems.

The contribution of health staff in youth offending teams, together as appropriate with training of non-health personnel in identifying underlying health problems, can help ensure prompt and appropriate referral to health agencies for assessment and treatment.

17.8 *Magistrates and judges* need to be aware of the range of options locally and should indicate when requesting a report any particular aspects of the young person's behaviour that they wish to be addressed in reports. Feedback to sentencers about the effectiveness of different local programmes for intervention with children and young people who offend, through youth court user groups and other means, will help inform their decision making. *Pre-sentence reports*, where needed, should set out the way in which a community penalty or a custodial penalty, as appropriate, can help tackle offending behaviour.

- *working with parents and guardians*

17.9 Parents may need help to support their child in keeping out of trouble or avoiding further offending. In some cases the relationship between the child and his or her parents, or the failure of the parents to take effective action to prevent offending, may be one of the causes of offending. *Courts* have powers under section 58 of the Criminal Justice Act 1991 to bind over parents to care for their child where this would help prevent further offending. Under section 8 of the Crime and Disorder Act 1998, they have powers to impose a parenting order which can require parents to attend counselling and parent training classes.

17.10 More generally, those working with children and young people who offend (*youth offending teams, social workers, probation officers, education and health workers, others working with young offenders in the community, those running secure facilities*) should seek to involve parents whenever this is appropriate and to work with them to help prevent the young person reoffend.

Supervision and enforcement

"I am convinced that effective multi-agency working is a key factor in preventing and tackling offending. As two of the major agencies involved, I know just how important a role social services and health authorities have to play in the youth justice system, both as members of the multi-agency youth offending teams and as individual social workers and health professionals working with children and young people generally. This framework document is a valuable aid to all those working in the youth justice system."

Paul Boateng, Parliamentary Under Secretary of State, Department of Health

18. Effective intervention needs to be supported by **effective supervision and enforcement of sentences, key to objectives 2 and 3**. This means:

- *dealing with children and young people fairly and firmly*

18.1 Children and young people who are subject to bail support or other remand conditions, who are subject to a court order, or are participating in a final warning intervention, need to know what is expected of them and how their behaviour will be assessed. The remand/bail conditions, the conditions of a final warning intervention, a court order or conditions of post-release supervision should be appropriate to the age and maturity of the young person, to the

risk of offending and to the offence. These conditions and the consequences of non-compliance, should be explained to the child or young person in a way that he or she can understand, by the *police or the magistrate or judge* at the point at which the bail, warning or sentence decision is taken and by the *director or governor of a secure facility*, on release from custody. *Defence lawyers, youth offending team members, social workers and probation officers* can all help ensure that the child or young person, and his or her parents, understand what is required. Those subject to a court order, in particular, need to know in what circumstances breach proceedings will be brought against them. Regular and constructive feedback, from a *responsible officer*, about behaviour will re-inforce good behaviour and help discourage non-compliance.

18.2 Firm and swift action should be taken by the *supervising officer or the officer in charge of an attendance centre* if the child or young person fails to comply with requirements, in line with national standards in the case of court orders or in line with other guidance. The *police* and, through efficient listing of cases, the *courts (justices' clerks)* should help ensure that breach proceedings are dealt with quickly.

- ***dealing with young people in a way that encourages inclusion and re-integration***

18.3 Achieving the aim of preventing offending by children and young people means that interventions following a police final warning or as part of a sentence should seek to prevent offending beyond the formal response as well as during it. The objective should be to re-integrate the young person into the community. This means planning ahead; maintaining links with the community where a young person is serving a custodial sentence; putting in place longer term action to tackle education, employment, health issues or homelessness; and encouraging young people to become involved in sporting or other constructive leisure time activities which can provide structure and support for young people beyond their sentence or final warning intervention. *Mentoring* may have a useful role to play for many children and young people. *Family group conferencing*, where appropriate, may be helpful and constructive in identifying longer term strategies and support to prevent offending.

18.4 Those responsible for the supervision of sentences (*youth offending team members, social workers, probation officers, officers in charge of attendance centres, those working in secure facilities*) need to work with children or young people in co-operation with others, such as *family members, teachers, health workers, those working in career services, those working in youth and leisure services and mentors*, to help ensure that children and young people who have offended do not remain or become socially excluded.

- ***appropriate training for those working with young people***

18.5 Training for those working with children and young people under sentence or as

part of any other intervention is essential. The key contributors to supervision and enforcement are *youth offending team members, social workers, probation officers, officers in charge of attendance centres, mentors, voluntary sector workers, those working in secure facilities*.

The aim - national leadership

I am pleased to be the first Chair of the Youth Justice Board for England and Wales. The Board will play a central role in helping to achieve the changes to the youth justice system - both of philosophy and practice - which the provisions of the Crime and Disorder Act require. It will give support and direction to those agencies and individuals who are responsible for putting these changes into practice at a local level and for making a reality of the new statutory principal aim of preventing offending by children and young people. The new aim provides for a much-needed

clarity about the focus of the youth justice system and the outcomes that we should seek to achieve.

I see the Youth Justice Board's main task as ensuring the delivery of that aim through our work with local people. We will support the development and dissemination of good practice and monitor and evaluate the operation of the youth justice system. The guidance in this framework document on the contributions that different agencies and individuals can make to delivering the principal aim provides a helpful starting point for the work of the Board. We will want to build on and develop this guidance by learning from local experience. The members and staff of the Board will visit local areas, to promote good practice in preventing children and young people offending and to listen to the views of those working with young offenders and those at risk of offending.

The measure of our success, and that of all those working in the youth justice system, will be the extent to which young people who offend, or are at high risk of offending, are prevented from doing so by engaging in more constructive activities and lifestyles.

Lord Warner of Brockley, Chair of the Youth Justice Board for England and Wales

19. Responsibility for the day-to-day delivery of youth justice services (with the exception of some custodial facilities) lies with local agencies and accountability for these with elected members of local authorities and members of other relevant bodies. But **national oversight and leadership** are vital to the effective delivery of such services. The Government departments that have together drawn up this framework document, in consultation with the main national associations and societies, have an important role to play in delivering that oversight and leadership. Government departments provide a large proportion of the financial resources for the delivery of youth justice services through, for example, local authority funding, police grants, probation grants and provision of court services, legal aid and custodial facilities. They also have an important leadership role to play in other ways including:

- ensuring an appropriate and effective legislative framework;
- reviewing and monitoring the way in which the youth justice system operates against available resources;
- providing guidance and disseminating good practice;
- encouraging innovation and creativity;
- developing new approaches and new ideas;
- providing feedback to local areas about their performance;
- communicating the aims, objectives and outcomes of the youth justice system to the public.

20. To help deliver these responsibilities effectively, the Government has set up the **Youth Justice Board for England and Wales** (provided under section 41 of the Crime and Disorder Act). The Board will help provide a clear direction for the youth justice system by:

- providing support and advice to local areas to help them deliver good quality youth justice services;
- monitoring the performance of local areas in delivering youth justice services;
- advising the Government on the operation and performance of the youth justice system;
- advising the Government on the way in which the statutory aim of preventing offending by children and young people can best be delivered;
- advising on the standards for the work of youth offending teams;
- publishing information.

The Board also has a key role in helping to ensure effective provision of secure accommodation

for remanded and sentenced juveniles.

Monitoring the aim

21. Successful delivery of the aim of preventing offending by children and young people requires effective monitoring of the youth justice system and its outcomes. Understanding the patterns of youth crime, the causes of it and the success of different kinds of intervention in preventing further offending can help plan youth justice services, target resources and inform sentencing decisions. The *Youth Justice Board* is responsible for monitoring the operation of the youth justice system and the work of youth offending teams across England and Wales. Local monitoring, and the sharing of monitoring information locally, are equally important. Local agencies need to have an accurate measure of local youth crime and related risk factors. The basic test must be 'are we reducing youth crime?'

22. Other key information includes:

- time taken to deal with cases and reasons for delay (*key to objective 1*);
- characteristics of offenders eg race, sex, education, employment, family circumstances - (*key to objectives 3 and 6*);
- use of reprimands and warnings for different kinds of offences and offenders (*key to objective 3*);
- outcomes following a reprimand or final warning, including successful completion of final warning intervention and re-offending rates within 6 months, 1 year and 2 years (*key to objectives 2, 3, 5*);
- sentences imposed for different kinds of offences and offender (*key to objectives 3 and 5*);
- outcome following sentence including successful completion, breach rates and re-offending rates within 6 months, 1 year and 2 years (*key to objectives 2, 3, 5*);
- circumstances and outcomes of use of parenting orders, including successful completion and breach rates (*key to objective 6*).

Aim - check list

23. The roles and responsibilities of the different agencies and individuals working in the youth justice system vary. Different parts of this framework document will be more relevant to the work of some agencies and individuals than others but the aim of preventing offending is common to all.

24. *All agencies and individuals* should:

- have considered how best to carry out their responsibilities quickly and efficiently
- be linked in to, and participate as appropriate in, the structure of youth offending teams
- understand the youth justice system and the legislation that governs its operation
- be familiar with local patterns of youth crime and the causes of offending by young people
- have clear objectives for each appropriate stage of their work so that performance can be assessed

25. *Together agencies and individuals* should consider agreeing *local protocols*, consistent with this framework document and other Government guidance or national standards and the legislation which it supports, to establish a clear set of procedures understood by all, joint or

shared performance targets where appropriate and an agreed approach to monitoring performance. *Youth offending teams* and those responsible for managing them are well placed to lead on this. Key areas for local protocols are:

- fast tracking procedures for persistent young offenders
- best practice procedures for other young offender cases
- arrangements for sharing information
- arrangements for providing timely access to wider services - eg health services to tackle underlying health problems that may be associated with offending and relevant education services in support of offender assessment or offending behaviour programmes.

26. Through the publication of an annual youth justice plan, and other publications and events, local youth justice agencies, working with elected members, should aim to keep the *public* informed about their work, increase their understanding of the way in which steps are being taken locally to prevent children and young people offending and ensure the public's confidence in the efficiency and effectiveness of the youth justice system.

¹ See for example *Young people and crime* by John Graham and ben Bowling, Home Office, 1995. (Home Office research study 145: ISBN 1858935512).

ANNEX A

YOUTH JUSTICE SERVICES

Section 38 of the Crime and Disorder Act 1998 sets out the youth justice services which local authorities, in co-operation with the police, probation service and health authorities, are required to ensure are available in their area. These are:

pre-court

Appropriate adult service (Code of Practice C under the Police and Criminal Evidence Act 1984)

Final warning scheme, with appropriate interventions (Section 65 and 66 of the Crime and Disorder Act 1998)

Bail support

Placement of those remanded to local authority accommodation in remand fostering, non-secure and secure residential facilities

court

Provision of court reports, including pre-sentence reports

Supervision of an effective range of penalties and interventions

for 10-17 year olds

- Reparation order (Sections 67 and 68 of the Crime and Disorder Act 1998)
- Action plan order (Sections 69 and 70 of the Crime and Disorder Act 1998)

- Attendance Centre Order (Section 17 of the Criminal Justice Act 1982 (as amended))*
- Supervision order (Section 7 of the Children and Young Persons Act 1969)
- Curfew order (Section 12 of the Criminal Justice Act 1991)*
- Detention and training order, including throughcare and post release supervision (Section 73 of the Crime and Disorder Act 1998)
- Section 53 custodial sentences including throughcare and post release supervision (section 53 of the Children and Young Persons Act 1933)

for 16 and 17 year olds

- community service order (Section 14 of the Powers of Criminal Courts Act 1973)
- probation order (Section 2 of the Powers of Criminal Courts Act 1973)
- combination order (Section 11 of the Criminal Justice Act 1991)

for parents

- parenting order (Sections 8 and 9 of the Crime and Disorder Act 1998)
- parental bindover (Section 58 of the Criminal Justice Act 1991)

for young children (under 10) at risk of offending

- child safety order (Sections 11 and 12 of the Crime and Disorder Act 1998)

(* not included in section 38 - attendance centres managed centrally but close links needed locally with youth offending teams; electronic monitoring provided centrally)

ANNEX B YOUTH JUSTICE LEGISLATION, GUIDANCE AND PUBLICATIONS

LEGISLATION: KEY PROVISIONS

Children and Young Persons Act 1933

Section 34A	makes provision for parental attendance at court during proceedings involving their children.
Sections 39 and 49	makes provision for issues related to reporting restrictions in youth courts.
Section 44	imposes duty on the court to have regard to the welfare of juveniles when dealing with them.
Section 46	restricts the jurisdiction of magistrates' courts which are not youth courts in cases where a child or young person is charged with an offence.
Section 47	relates to who can attend during a youth court sitting.
Section 50	makes provision for the age of criminal responsibility.
Section 53	makes provision for sentences of long-term detention for grave crimes.
Section 55	deals with payment of fines of juveniles by their parents or guardian.

Children and Young Persons Act 1969

Section 7 makes provision for criminal supervision orders

Section 23 allows the court to remand juveniles to local authority accommodation (to prison in the case of 15 and 16 year old boys).

Powers of Criminal Courts Act 1973

Section 1 provides for the courts to make an order for an absolute or conditional discharge.

Section 2 makes provision for probation orders.

Section 14 makes provision for community service orders

Section 35 Section 35 makes provision for compensation orders

Magistrates' Courts Act 1980

Section 24 provides for the determination of summary trial for juveniles for indictable offences.

Section 29 make provision for the imposition of fines for summary conviction for offences triable either way.

Sections 32 and 36 make provision for the imposition of fines for summary conviction for offences triable either way.

Section 128A makes provision for remand time limits.

Criminal Justice Act 1982

Section 1 prohibits imprisonment for those under the age of 21 and provides for a sentence of detention in a Young Offender Institution (will cease to apply in relation to juveniles on the commencement of the detention and training order).

Section 17 makes provision for attendance centre orders.

Police and Criminal Evidence Act 1984

Section 38(6) sets out the duties of a custody officer in the case of an arrested juvenile.

Children Act 1989

Section 25 permits local authorities to seek secure accommodation applications.

Schedule 2, para 7(b) requires local authorities to take steps to encourage children and young people not to commit offences.

Criminal Justice Act 1991

Section 1 sets out restrictions for the courts in imposing custodial sentences.

Section 6 sets out restrictions for the courts in imposing community sentences.

Section 11 makes provision for combination orders.

Section 12 makes provision for curfew orders.

Section 58 makes provision for the courts to bind over parents of juveniles convicted of offences.

Criminal Justice and Public Order Act 1994

- Section 1 makes provision for secure training orders (will cease to have effect on the commencement of the Detention and Training Order).
- Section 21 makes provision for arrangements to meet the costs of court-ordered secure remands.

GOVERNMENT GUIDANCE

National Standards for the Supervision of Offenders in the Community issued jointly by the Home Office, the Department of Health and the Welsh Office, 1995

Tackling delays in the youth justice system: inter-departmental circular. Home Office, 1997

Opening up Youth Court Proceedings: Joint Home Office/Lord Chancellor's Department Circular, 11 June 1998

[Crime and Disorder Act 1998: Introductory Guide](#), Home Office, 1998

Measuring Performance to Reduce Delays in the Youth Justice System: Joint Home Office/Lord Chancellor's Department Circular, 16 September 1998

Home Office guidance on:

- the final warnings scheme;
- parenting orders;
- [child safety orders](#);
- [local child curfews](#);
- [reparation orders](#);
- [action plan orders](#).

Inter-departmental guidance on:

- [Establishing Youth Offending Teams](#)

KEY DOCUMENTS

- [No More Excuses](#) - A New Approach to Tackling Youth Crime in England and Wales (Cm 3809). Home Office.
 - Young People and Crime by John Graham and Ben Bowling. Home Office, 1995 (Home Office Research study)
 - Misspent youth: young people and crime. Audit Commission, 1996
 - Misspent Youth '98, Audit Commission, 1998
 - The ISTD Handbook of Community Programmes for Young and Juvenile Offenders, compiled and edited by Carol Martin, ISTD Spring 1998
 - The ISTD Guide To Setting Up And Evaluating Programmes for Young Offenders, by Simon Merrington, ISTD June 1998.
 - Strategies for Effective Offender Supervision - a report by HM Inspectorate of Probation, January 1998.
 - Evidence-based practice; a guide to effective practice, HM Inspectorate of Probation, Autumn 1998.
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